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10/791,854	03/04/2004	Su-Jin Han	P57016	5248

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ROBERT E. BUSHNELL & LAW FIRM
2029 K STREET NW
SUITE 600
WASHINGTON, DC 20006-1004

EXAMINER

TURNER, KATHERINE ANN

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.



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Mailed : 2/23/09
In re Application of
SU-JIN HAN et al.
Serial No. 10/791,854
Filed: March 4, 2004
For: SECONDARY BATTERY

DECISION ON
PETITION

This is a decision on the PETITION UNDER 37 CFR §1.144 filed September 8, 2008.

On February 11, 2008, a restriction requirement was mailed. The restriction requirement set forth three groups of species and directed applicant to elect one species from each group. Applicants traversed the restriction requirement in a response filed October 27, 2006 and elected only from group I. A supplemental election was submitted on April 25, 2008. In the supplemental election applicants elected a species from group II and Group III also. On July 8, 2008 a non-final action was mailed wherein the restriction requirement was made final.

On September 8, 2008, the instant petition under 37 CFR §1.144 was filed to formally request the withdrawal of the restriction requirement.

Applicant's position for the withdrawal of the restriction requirement is that an additional search of the non-elected claims would not impose a serious burden.

DECISION

Petitioner states that the examiner has failed to show any type of burden, much less a serious burden, in the restriction requirement, and thus the examiner must examine the entire application. Petitioner argues that the subject matter of the six species overlap and the mandatory fields of search for the six embodiments are coextensive. These arguments are persuasive. Although the examiner's requirement for restriction alleges an examination and search burden a strong case for such has not been established.

Art Unit: 1700

Petitioner states that the examiner's search for generic claim 1 proves that the examiner has performed a search without any burden. Although this is not necessarily true in all cases, a review of the record indicates that examination of the recited species would not impose a serious burden.

Accordingly, the petition to withdraw the restriction requirement is **GRANTED**.

/JACQUELINE STONE/

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